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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,999	03/05/2002	Lazlo Hangody	00167-367002	5136

7590 01/20/2006

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EXAMINER

REIP, DAVID OWEN

ART UNIT	PAPER NUMBER
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3733

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 11-13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Treacy (U.S. Pat. No. 5,716,362). Fig. 1 of Treacy shows a patella repair device having all the limitation as recited in claims 1-3, 11-13 and 15, including: a first instrument 26 including a channel (through drive holder 28) defining a longitudinal axis that extends from the channel and is capable of intersecting an anterior surface of the patella 22, a director handle 26, and a slot (through 36') configured to receive the second instrument; a second instrument 16 that is mountable to the first instrument that includes a foot 14 having a generally flat upper surface that is capable of being pressed against the posterior surface of the patella, and a central channel (the slot that allows sliding adjustment of clamping element 20) passing between the upper and lower surface of the foot 14.

Allowable Subject Matter

Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Davis (U.S. Pat. 4,235,428) shows a surgical instrument device that is capable of being used on a patella and that also anticipates under 102(b) all of claims 1-3, 11-13 and 15.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

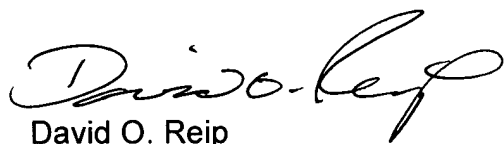
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David O. Reip whose telephone number is 571-272-4702. The examiner can normally be reached on 7 A.M.- 4:30 P.M. Mon-Thu and every other Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "David O. Reip", with a stylized flourish at the end.

David O. Reip
Primary Examiner
AU 3733